

# In the United States Court of Federal Claims

No. 17-449

Filed: May 19, 2017

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CONTINENTAL SERVICES \*  
GROUP, INC., and PIONEER CREDIT \*  
RECOVERY, INC., \*

Plaintiffs, \*

and \*

COLLECTION TECHNOLOGY, INC., \*  
and PERFORMANT RECOVERY, INC., \*

Intervenor-Plaintiffs, \*

v. \*

THE UNITED STATES, \*

Defendant, \*

and \*

CBE GROUP, INC., PREMIERE \*  
CREDIT OF NORTH AMERICA, LLC, \*  
GC SERVICES LIMITED PARTNERSHIP, \*  
FINANCIAL MANAGEMENT SYSTEMS, \*  
INC., VALUE RECOVERY HOLDINGS, \*  
LLC, WINDHAM PROFESSIONALS, \*  
INC., and PROGRESSIVE FINANCIAL, \*  
INC., \*

Intervenor-Defendants. \*

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## ORDER

The court has reviewed the Government's May 19, 2017 Notice Of Corrective Action, advising the court of the United States Department of Education's ("ED") proposed corrective action and requesting that the court "uphold the [ED's] corrective action plan and dismiss the complaints as moot." ECF No. 122 at 13. This filing, however, is NOT a motion, so there is nothing for the court to do. Even if the May 19, 2017 Notice is recast as a motion, the court does

not have jurisdiction to “endorse” the ED’s corrective action plan, because the Government is requesting an advisory opinion. *See Local No. 8–6, Oil, Chem. & Atomic Workers Int’l Union v. Missouri*, 361 U.S. 363, 367 (1960) (holding that federal courts are to decide only “*actual controversies . . .* and not to give opinions upon moot questions *or abstract propositions*” (emphases added)).

In addition, the corrective action proposal responds to a GAO opinion, not any merit decision by the court. ECF No. 122 at 7. In fact, the court has not received an administrative record nor entertained substantive briefing or argument on the merits. Therefore, the court has no opinion about the proposed corrective action, at this juncture.

Moreover, the court will not dismiss any of the seven complaints challenging Solicitation No. ED-FSA-16-R-0009, without a motion from plaintiffs.<sup>1</sup> Although some plaintiffs may wish to dismiss their complaints, others may request that the court stay proceedings until the ED implements the proposed corrective action. At that time, some plaintiffs may wish to dismiss their complaints, either because they are satisfied or to enable them to file any further protest they may have first with the GAO.

To the extent the parties wish to file any motions regarding the ED’s proposed corrective action, the court would appreciate if similarly-situated parties would coordinate and submit a single filing. Any party that does not believe their interest would be adequately represented by a joint filing, however, is of course free to file a separate motion.

Finally, the court has no interest in continuing the injunction, but the Government must provide assurances that the ED will not award any of the work, subject to the proposed corrective action, to other contracting vehicles and dilute the amount of work available for potential awardees under Solicitation No. ED-FSA-16-R-0009.

The court will convene a status conference to discuss these issues at the National Courts Building on Monday, May 22, 2017 at 1:00 PM (EST) that must conclude before 2:15 PM (EST). Parties that cannot attend the status conference in person may dial in using the following information: telephone number, 215-446-0155; access code, 4779231. Any filing that the parties wish the court to read before the status conference is due by 8:00 AM (EST) on May 22, 2017.

**IT IS SO ORDERED.**

s/Susan G. Braden  
**SUSAN G. BRADEN**  
**Chief Judge**

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<sup>1</sup> Plaintiffs filed complaints related to Solicitation No. ED-FSA-16-R-0009 in the following seven cases: (1) *Continental Services Group, Inc. v. United States*, No. 17-449; (2) *Pioneer Credit Recovery, Inc. v. United States*, No. 17-499; (3) *Account Control Technology, Inc. v. United States*, No. 17-493; (4) *Alltran Education, Inc. v. United States*, No. 17-517; (5) *Progressive Financial Services, Inc. v. United States*, No. 17-558; (6) *Collection Technology, Inc. v. United States*, No. 17-578; and (7) *Van Ru Credit Corporation v. United States*, No. 17-633.